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Chairman: Mr. Lelong ..... (Haiti)

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The meeting was called to order at 10.10 a.m.

Agenda item 167: Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (*continued*) (A/55/637)

1. **Mr. Huston** (Liechtenstein) expressed regret over recent attacks on United Nations and associated personnel. The efficacy of the United Nations as a guarantor of peace and a provider of humanitarian assistance was seriously diminished if the safety of its staff could not be ensured. Strengthening the protection of United Nations and associated personnel fulfilled the two-fold task of saving individual lives and saving the collective institution. While the United Nations must take necessary measures to protect the safety of its personnel, such protection was not possible without the full and effective cooperation of States, in particular those States where United Nations operations were being performed. The Convention on the Safety of United Nations and Associated Personnel was an important tool in guaranteeing that cooperation, since it included measures to prevent the commission of crimes against personnel and required States to prosecute or extradite the perpetrators of those crimes. Liechtenstein's support for the Convention was evidenced by its ratification thereof on 11 December 2000. The International Criminal Court would also be an important mechanism to protect United Nations and associated personnel, since its Statute recognized attacks against civilian United Nations and associated personnel as war crimes and its jurisdiction extended beyond those States that had ratified the Convention. Moreover, the Court gave States an incentive to investigate those crimes and prosecute those responsible for them. Liechtenstein had ratified the Statute of the International Criminal Court on 2 October 2001 and hoped that it would soon enter into force.

2. His delegation agreed with the Secretary-General's recommendations that the Convention should be strengthened. That should be accomplished both by improving its current implementation and by expanding its application. In its current form, the Convention suffered from an inadequate mechanism for protection of personnel engaged in non-peacekeeping operations of the United Nations. It would be useful to have a means of facilitating the triggering of a declaration under article 1 (c) (ii) of the Convention. He agreed with the Secretary-General that the relevant provisions of the Convention should be included in status-of-forces and status of mission agreements concluded between the United Nations and the States in whose territories peacekeeping operations were deployed. He also supported the elaboration of new mechanisms to enhance the protection of personnel already covered by the Convention as well as to ensure the protection of personnel not yet covered. Lastly, he supported the establishment of an appropriate ad hoc working group to consider all those issues in depth.

3. **Mr. Vázquez** (Ecuador) expressed support for the statement made the previous day by the Chilean delegation on behalf of the Rio Group and praised the work of those who had sacrificed their lives for peace and those working in the field to defend it. In that regard, it was important for the Convention on the Safety of United Nations and Associated Personnel, to which Ecuador had acceded in December 2000, to enter into force and to increase the number of States parties thereto. However, that instrument had limitations which must be overcome; they were reviewed in the Secretary-General's report on the topic. The report also contained a number of recommendations the adoption of which would contribute to strengthening the current regime of the Convention, including the incorporation of the Convention's key provisions into the status-of-forces or status of mission agreements. He endorsed the recommendation that, in order to ensure the protection of United Nations personnel participating in other United Nations non-peacekeeping operations, a similar provision should be incorporated in host country agreements concluded between the United Nations and States in whose territories United Nations personnel were deployed. He also endorsed the Secretary-General's intention to recommend to the General Assembly or the Security Council, as the case might be, that where there were sufficient warnings of immediate attacks or escalation of a conflict, a declaration that an exceptional risk existed to the safety of United Nations and associated personnel be made in order to give effect to the provisions of article 1 (c) (ii) of the Convention and bring within the ambit of its protective regime all United Nations operations conducted in risky, dangerous or volatile environments. He also stressed the need to ensure the protection of locally recruited United Nations personnel, as indicated by the Secretary-General. Lastly, he endorsed the Rio Group's proposal to establish a working group to consider the measures proposed by the Secretary-

General and such measures as Member States might wish to submit, and determine the most acceptable.

4. **Ms. Álvarez-Núñez** (Cuba) offered her condolences to the families of the United Nations staff members who had died recently as a result of the shooting down of an helicopter in Georgia and the families of the four United Nations workers who had died in the United States bombing in Afghanistan. Cuba condemned all attacks against United Nations and associated personnel, including humanitarian personnel. They were criminal acts and international crimes, which should be severely punished under the national legislation of host countries. The Convention on the Safety of United Nations and Associated Personnel maintained a delicate balance between the rights and obligations of the parties thereto and Cuba was of the view that it would help in the near future to increase the protection of personnel, provided that its norms were based on international law. It was also of the view that the countries concerned should adopt timely and effective measures to permit the authors of such crimes to be brought to justice, since the Convention recognized the primary responsibility of the host country to prosecute and punish the authors of crimes against United Nations and associated personnel. It was also essential for the Governments concerned and the parties to the conflict to respect international humanitarian law and the norms and principles of international humanitarian law and to cooperate fully with the United Nations and the international organizations directly involved in their efforts to protect the safety of United Nations and associated personnel and humanitarian personnel.

5. With regard to the measures proposed by the Secretary-General in his report (A/55/637), Cuba considered that some of those measures could help to strengthen the applicable legal regime of the 1994 Convention and deserved careful consideration, particularly those mentioned in paragraphs 20 (a), (b) and (c) of the report. The 1994 Convention itself, the possible adoption of some of the measures proposed by the Secretary-General and the early entry into force of the Statute of the International Criminal Court, among other factors, would contribute to the creation of a safer environment for all personnel participating in United Nations operations in conflict zones, a task in which the Member States and the Secretariat of the United Nations must collaborate. For their part, United Nations and associated personnel must respect international law and the purposes and principles of the Charter of the United Nations and observe the laws of the host countries. In all crises and conflict situations, personnel must observe the principle of impartiality, which was of particular importance at the current time. In considering that item, the General Assembly could take account of certain of the proposals and recommendations that had been presented in other forums. It might also be acceptable in the future to create a working group of the Sixth Committee to review in detail the report of the Secretary-General.

6. **Mr. Lenk** (Israel) said that Israel was a strong believer in the centrality of increasing the ability of the United Nations to safely carry out its humanitarian and peacekeeping missions, an issue which the recent tragic deaths of United Nations workers in Afghanistan and Georgia had highlighted. In light of the difficulties caused by the violence in the Middle East throughout the previous year and the continuing humanitarian concerns in the region brought on by Palestinian terrorism and violence, Israel recognized the great need for the important efforts being made by United Nations and other international personnel. Moreover, given its continuing concerns for the security of its citizens and that of other residents and international personnel working in the region, it appreciated those humanitarian efforts and was doing its best to facilitate them. It was working in close collaboration with a range of United Nations organizations, the International Committee of the Red Cross and a plethora of international and non-governmental organizations, some of which it had been working with since the creation of the State of Israel, more than 53 years previously, to provide humanitarian aid and assistance to the victims of the strife in the Middle East. Israel remained hopeful that the situation would improve and that the violence would end for the benefit of all the residents of the region.

7. While it was axiomatic that Member States must make every effort to protect United Nations and associated personnel, humanitarian and peacekeeping missions should also recognize their security obligations. For example, it was impossible to comprehend how United Nations-run schools or work projects could be used as bases, firing areas or hiding places for terrorists, who not only endangered their targets, namely, Israeli civilians and military personnel in the region, but also consciously put at risk many of their countrymen, especially children and refugees. It

was a matter of concern in the context of the discussion on United Nations personnel and the symbols and reputation of those vital international organizations. General Assembly resolution 55/175, of 19 December 2000, clearly stated that the primary responsibility under international law for the security and protection of humanitarian personnel and United Nations and associated personnel lay with the host. The United Nations must therefore stand up clearly to hosts which, like the Palestinian Authority and Lebanon, allowed such dangerous situations to exist in areas under their jurisdiction. Other examples included the dangerous misuse of protected symbols, the universally recognized symbols of the United Nations, which had been used by Hizbullah terrorists in Lebanon the previous October while kidnapping three Israeli soldiers on the Israeli side of the Israel-Lebanon border, and the misuse of the Red Crescent symbols to allow for shooting from marked ambulances or facilities. There too, the United Nations and the International Committee of the Red Cross must speak out, act clearly and decisively and draw attention to the security concerns of their staff and the effects of those actions on the region. The United Nations and its personnel must also allow host States to take responsibility for the protection of personnel, without recrimination and with understanding. During the previous year, certain United Nations organizations had criticized Israel for taking measures to protect its people and others in the region. While it was true that such measures might sometimes limit access by humanitarian aid workers or officials as a result of the closure of roads and borders, Israel was making every effort to keep those limitations to a minimum. In recent weeks, the dangers of terrorism had become clearer to all and States must be able to fight that scourge and to protect their citizens and international workers with the support of the United Nations and the international community.

8. The members of the Sixth Committee were all genuinely interested in strengthening the protection of humanitarian and peacekeeping personnel and many of the suggestions of the Security Council deserved careful examination. Cooperation was needed to achieve that worthy goal and account must be taken of the various issues that had been raised over the previous two days and, especially now, only a month after the horrific attack that had taken place in New York, the international community must work together not to allow the continued threatening of the security of civilians and international personnel and to allow United Nations personnel to carry out their work.

9. **Mr. Yengejeh** (Islamic Republic of Iran) observed that the Secretary-General's report (A/55/637) drew attention to three problems arising out of the application of the Convention. First, with the exception of Croatia, the countries hosting United Nations operations were not among the 54 States parties to the Convention. It was a matter of concern that United Nations personnel were sent to areas where the Convention would not be applicable. Second, the Convention did not automatically apply to United Nations political missions or a United Nations presence for humanitarian, development or human rights purposes. In such cases, the application of the Convention was conditional upon a declaration by the General Assembly or the Security Council that an exceptional risk existed to the safety of the personnel participating in the operations. Third, there was a need to determine whether the Convention applied with respect to humanitarian non-governmental organizations and locally recruited personnel, an issue which was in doubt. Chapter III of the report proposed some useful and practical measures to strengthen the existing Convention regime, including the recommendation that the Security Council or the General Assembly should make the aforementioned declaration in cases where there were sufficient warnings of an immediate attack or an escalation of the conflict. Another proposed practical measure was the incorporation of the Convention's key provisions in status-of-forces or status of mission agreements, so that the obligations contained in the Convention would also be binding on the State in whose territory United Nations peacekeeping operations or other missions were deployed. Lastly, the report contained a proposal for the development of a protocol to extend the scope of protection and automatic application of the Convention to all United Nations operations and categories of personnel not currently covered. That proposal required careful attention and consideration, since the Convention was not intended to cover operations that were not under United Nations command and control or personnel not associated with the United Nations system.

10. **Mr. Listre** (Argentina) associated himself with the statements made on behalf of the Rio Group and said that the issue of the security and safety of United Nations and associated personnel was a source of

constant concern in his country. The 1994 Convention had been overtaken by events and steps must be taken to cope with the resulting situation. The starting point for strengthening the personnel protection system was the principle of the responsibility of the host State, deriving from its normal duty, inherent in every Government, to maintain law and order and protect the persons and property under its jurisdiction. Where that principle was considered insufficient, the Charter stated that United Nations personnel should enjoy such privileges and immunities as were necessary for the fulfilment of its purposes. Thus, the aforementioned principle was supplemented by international law. It had nevertheless become necessary to protect certain categories of international personnel. It was in that context that the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, had been adopted in 1973, followed six years later by the International Convention against the Taking of Hostages, both of which incorporated much more advanced forms of protection, since they included the obligation to punish the offences concerned with more severe penalties and to try or extradite their perpetrators. The 1994 Convention had been prepared in response to the Secretary-General's invitation to draft an international instrument to codify and develop international law concerning the security of United Nations forces and personnel, but the limited number of ratifications and certain textual problems had impeded its application and given de facto impunity to the perpetrators of attacks. The application of the Convention currently entailed two practical problems. The first was the protection of local personnel. While international personnel accredited to a State enjoyed a status different from that of the citizens of that State as a whole, the status of local personnel was not clear and there were differing views on the subject. His delegation considered that the protection offered by the Convention did not take the traditional form of immunity, privilege or exemption under diplomatic law, but rather that of an invitation to the local jurisdiction to apply the law with greater force and to sanction crimes against such persons with more severe penalties and more effective mechanisms. That aspect of the issue should be considered in a working group. With regard to the relationship between the Convention and international humanitarian law, the application of that law clearly lay outside the scope of the Convention. In any case, the item should remain under consideration so as to encourage more States to ratify the Convention, thus permitting the establishment of a more universal regime. Lastly, Argentina supported the incorporation of the key provisions of the Convention in status-of-forces and status of mission agreements without the need for special instructions from the General Assembly.

11. **Mr. Kanu** (Sierra Leone) said his country was currently hosting one of the largest United Nations peacekeeping operations, UNAMSIL, whose presence had been crucial for the consolidation of the peace progress and the disarmament programme, but also bore testimony to the risks that peacekeeping operations could face. His delegation therefore welcomed the Secretary-General's recommendations on measures for strengthening the existing regime of the Convention, and in particular the proposal that the Security Council or the General Assembly should make the declaration provided for in article 1 (c) (ii) of the Convention, so that all United Nations operations conducted in volatile security situations were brought within the Convention regime. His delegation also supported the proposal to include key provisions of the Convention in status-of-forces and status of mission agreements. It was essential to provide such minimum protection for peacekeeping operations, wherever they were deployed and whether the host State was a party to the Convention or not. Lastly, he expressed his delegation's interest in participating in the negotiations for the development of a protocol that would offer a more comprehensive protection regime and in particular extend its application to all United Nations operations, regardless of the security situation and the category of personnel concerned. In that context, it fully supported the proposal to convene an ad hoc committee.

12. **Mr. Al-Hussein** (Jordan) said his country had not acceded to the Convention on the Safety of United Nations and Associated Personnel for reasons which had been explained previously, but it was one of the largest contributors of personnel to United Nations peacekeeping operations and was very much aware of all the risks involved. In the six years that had elapsed since the negotiation of the Convention, the nature of United Nations peacekeeping operations had changed. What had been considered exceptional in 1994 had now become the norm, particularly in cases where those participating in the operations were exposed to a higher than normal risk of death or injury. A point had

been reached where it was difficult to determine whether a United Nations peacekeeper serving in complicated and dangerous operations was a combatant or a non-combatant. That was important, since unless the enabling mandate for the operation fell under Chapter VII, in which case the United Nations was clearly a party to the conflict, any peacekeeper was presumed to be impartial, even when acting in self-defence, and as a civilian was entitled to protected person status under the international law of armed conflict. However, it was common knowledge that that very same peacekeeper was mandated by the Security Council to embark on offensive actions and often did so. The Convention did not resolve that problem, and perhaps even compounded it, by not making it clear where international humanitarian law ended and the legal regime of the Convention began. It was therefore not surprising that the Secretary-General had referred to the need to delineate clearly the distinction between those two mutually exclusive regimes. With regard to the Secretary-General's proposal that the key provisions of the Convention should be incorporated into status-of-forces or status of mission agreements, his delegation agreed that host Governments had a special responsibility for the safety and security of United Nations personnel, but felt it should be borne in mind that non-State actors, neighbouring States and the Security Council itself also had responsibilities in that regard. Concerning the proposal that the applicability of the Convention should be extended to other categories of personnel, although that might encourage many to accede to the Convention, it might also dissuade others. Lastly, his delegation supported the idea of establishing a separate ad hoc committee to address those and other issues during the current session.

13. **Mr. Narinder Singh** (India) said his country was one of the major troop contributors to United Nations peacekeeping operations and over 100 Indians had died serving in such operations. Although the Convention on the Safety of United Nations and Associated Personnel provided for its application to United Nations non-peacekeeping operations, that application was dependent on a declaration by the General Assembly or the Security Council that an exceptional risk existed to the safety of the participating personnel, and no such declaration had thus far been made, even in highly volatile and dangerous situations. Although the issue needed to be discussed in greater detail, the Convention already covered all United Nations personnel and his country would support proposals aimed at ensuring that it was applied in practice. However, the proposal to designate the Secretary-General as the "certifying authority" for purposes of attesting to the existence of a risk or of an agreement on the status of the personnel of humanitarian non-governmental organizations not belonging to the United Nations family needed to be carefully examined. One of the reasons why India had not become a party to the Convention was the wide definition of the term "associated personnel", and it could not therefore support a proposal that would seek to perpetuate that inherent flaw in the Convention. There should be a clear distinction between peacekeeping and other humanitarian functions. The inclusion of non-governmental organizations within the scope of the Convention would not only impair their neutrality and independence but would also impose an avoidable burden on United Nations peacekeepers. Furthermore, while his delegation had no problem with the proposal to incorporate key issues of the Convention in status-of-forces and status of mission agreements it should be borne in mind that all parties to a conflict where a United Nations operation was deployed, including non-State actors and neighbouring States, bore a special responsibility for the safety and security of United Nations and associated personnel engaged in that operation. The proposal to elaborate a protocol to extend the Convention's scope of application required careful consideration and should be discussed in an open-ended ad hoc committee.

14. **Mr. Hybl** (United States of America) said his country was looking into the circumstances surrounding the death of the United Nations employees working in Afghanistan for the Office for the Coordination of Humanitarian Affairs. His country placed a very high priority on the safety of all civilians and non-combatants, including humanitarian workers and other innocent people. It was committed to minimizing civilian casualties and damage to civilian property in actions against terrorism and was taking all the necessary precautions.

15. With regard to the Secretary-General's report and the recommendation concerning a procedure whereby the Security Council or the General Assembly would make a declaration to the effect that there existed an exceptional risk to the safety of personnel, his country had no objection to studying possible procedures for such a declaration by the Security Council and believed

that the Council was the appropriate venue for consideration of the issue. The report recommended the designation of the Secretary-General as a certifying authority with regard to the existence of exceptional risk to United Nations and associated personnel. That certification would provide the basis for the Security Council's declaration that such a risk existed, thus bringing the Convention into effect. In his delegation's view, the proposed certification involved not only questions of fact but also a legal interpretation of the scope of the Convention. As noted in the report, the United Nations was not a party to the Convention and its views were without prejudice to the views of States or the decisions of national authorities about obligations under the Convention. Any decision by the Secretary-General as to whether the victim of an attack would be included in the category of United Nations and associated personnel would not be determinative.

16. The parties to the Convention could call on the assistance of the Secretary-General to provide information relevant to whether or not the Convention was applicable to a particular case; that would allow States parties to draw their own conclusions about their legal obligations. His delegation supported the recommendation in the report that key provisions of the 1994 Convention should be incorporated into the status-of-forces or status of mission agreements concluded between the United Nations and States in whose territories peacekeeping operations were deployed. Although the United States was not yet a party to the Convention, the United States President had sent the Convention to the Senate for the adoption of a decision on ratification. The United States supported the elaboration of a protocol that would extend protection to humanitarian relief personnel. It had not determined its position on the precise parameters of the protocol, but could support the establishment of a working group of the Committee to consider measures to strengthen the protective regime of the Convention, taking into account the recommendations made by the Secretary-General.

17. **Mr. Thayeb** (Indonesia) said that his delegation associated itself with the condolences expressed by the Secretary-General in connection with the death of United Nations workers during the conflict in Afghanistan. Indonesia believed that the lives of innocent civilians must be protected at all costs during conflict situations and that a consistent position must be taken to assure the safety of such personnel; otherwise, the very credibility of United Nations missions would be undermined. That was particularly relevant since personnel in United Nations operations worked in the common interest of the international community and in accordance with the purposes and principles of the Charter of the United Nations. His delegation believed that one life lost was one too many; it therefore condemned in unequivocal terms the killing of the three UNHCR staff members in East Nust Tenggara on 6 September 2000. His Government had taken swift action in bringing the perpetrators of those heinous crimes to justice.

18. His delegation believed that the recommendations in the report of the Secretary-General, particularly those relating to the trigger mechanism for the formulation of a declaration on the existence of an exceptional risk, the incorporation of key provisions of the Convention into the status-of-forces or status of mission agreements and the extension of the applicability of the Convention to locally recruited personnel would need to be carefully considered within the framework of an ad hoc group to be established at an appropriate time by the General Assembly. With regard to article 1 (b) (iii) concerning the enlargement of the scope of the Convention by means of a protocol, his delegation believed that that approach would raise more difficulties rather than help fill gaps in the law. In line with the provisions of the Convention, a non-governmental organization should refrain from any action that was incompatible with the impartial and international nature of duties usually performed by United Nations personnel. Under those circumstances, it would be preferable to establish a separate legal regime governing the personnel of non-governmental organizations.

19. **Mr. Ogonowski** (Poland) said that as one of the major contributors of personnel to United Nations peacekeeping operations, with 1,035 nationals currently serving in 10 operations, Poland attached particular importance to the efforts that were being made to strengthen the legal basis of protection afforded to those who risked their lives to uphold the principles and purposes of the United Nations. In all, 43 Polish nationals had lost their lives serving as members of United Nations peacekeeping missions in various parts of the world.

20. His delegation welcomed the progress made in the ratification of the Convention and believed that further efforts should be made in that respect in order

to ensure universal participation. The inclusion in the Statute of the International Criminal Court of provisions criminalizing attacks against personnel involved in humanitarian or peacekeeping missions had been another important factor in that respect and would significantly enhance the protection afforded to members of United Nations operations once the Statute entered into force. However, there were serious shortcomings in the scope of that protection, and the incorporation of the basic provisions of the Convention into status-of-forces or status of mission agreements, as proposed by the Secretary-General in his report, could be a way of addressing that issue which deserved full support. That was all the more important in that the State in whose territory a peacekeeping operation was deployed and which had primary responsibility for guaranteeing the safety of peacekeeping personnel was not usually a party to the Convention. His delegation also believed that very serious consideration should be given to the other proposals in the report about possible ways of enhancing the safety of United Nations and associated personnel and extending the scope of the Convention to organizations and operations not currently covered by its provisions. Lastly, he wished to inform the Committee that his Government had decided to contribute an amount of US$ 10,000 to the Trust Fund for Security of Staff Members of the United Nations system.

21. **Mr. Lacanilao** (Philippines) said that the Secretary-General's report contained an excellent analysis of the legal ramifications of the Convention and good proposals for closing the gaps in it. The Philippines had been a State party to the Convention since a year and a half before its entry into force on 15 January 1999, and had contributed military and civilian personnel to various United Nations peacekeeping operations. His delegation was therefore in broad agreement with the measures proposed by the Secretary-General to make the Convention more effective, namely: the establishment of a procedure to initiate a declaration by the Security Council or the General Assembly; the designation of the Secretary-General as the certifying authority on various matters related to the application of the Convention; and the incorporation of the key provisions of the Convention in status-of-forces and status-of-mission agreements. Those measures would serve to strengthen the security regime. The Philippine delegation joined other delegations in calling for the immediate implementation of those measures, as there was an urgent need to establish rules for the implementation of the Convention.

22. With regard to the Secretary-General's proposal to extend the application of the Convention to all United Nations operations, with a specific mandate or not, to all United Nations personnel, including locally recruited staff, and to personnel of humanitarian non-governmental organizations, his delegation believed that all of its nuances must be studied before a consensus was reached. The justification for the proposal was that the Convention was an inadequate instrument, but it was a recent instrument, and there was still no evidence as to whether or not it was legally effective. The issue was complicated by the fact that many States hosting United Nations operations were not parties to the Convention. With regard to the trigger mechanism, it was possible that what was involved was merely a procedural problem; for that reason, his delegation supported the proposal that the Secretary-General should be designated as a certifying authority. Such an innovation did not require an amendment to the Convention, but rather an interpretative resolution by the States parties. Paragraph 19 of the report suggested correctly that the Convention did not distinguish between international and locally recruited personnel. Accordingly, while there might be distinctions as to privileges and immunities, locally recruited personnel might be considered as covered by the Convention. With regard to the inclusion of humanitarian personnel having no contractual link with the United Nations, there was no doubt that they incurred the same dangers as United Nations personnel, and that the Convention was intended to cover a specific category of personnel; however, that was a policy issue that might perhaps be better handled in the context of an independent convention, be it a protocol or a separate agreement. There was a need for further ventilation of views on the matter. Some delegations had proposed the establishment of an ad hoc working group to further consider the Secretary-General's proposals. His delegation had no objections to that, but it should be clear that such a working group would not necessarily adopt the proposal, but would instead review, consider and debate it. His delegation would continue to have an open mind on all the issues related to the matter, as its intention was to make effective the security and legal regime established through the Convention.

23. **Mr. Im** Han-Taek (Republic of Korea) said it was regrettable that, despite the 1999 entry into force of the Convention, which his Government had ratified in 1997, attacks against United Nations and associated personnel were increasing. Unfortunately, the Convention had proved to be impracticable in some respects and limited in scope. Moreover, none of the countries in which United Nations peacekeeping operations were taking place had ratified it; the Convention had also failed to protect personnel not closely linked to United Nations operations. His delegation believed that locally recruited staff should be treated as United Nations personnel, and that it was urgent to strengthen the legal framework enabling United Nations personnel to carry out their tasks in a safe environment, in order to make it more effective. In that connection, the recommendation to incorporate the Convention's key provisions into status-of-forces and status-of-mission agreements between the United Nations and the host country was particularly interesting. Primary responsibility for the legal protection of personnel involved in United Nations activities rested with the host country; the proposal could be an interim measure until a transitional mechanism was put in place. The recommendation to formulate a protocol to the Convention to ensure its automatic application to all United Nations operations and all categories of personnel, including locally recruited staff, was also interesting. While it would be ideal to have such a protocol, the ramifications of the recommendation must be carefully examined, in order to avoid legal conflicts. His delegation believed that it would be appropriate, given the Committee's time constraints, to set up an ad hoc group to examine those recommendations and work out a more effective protective mechanism under the Convention; it was prepared to participate in the deliberations of such a group. Lastly, he recalled that in 1997 his Government had raised in the Security Council the need to protect personnel providing humanitarian assistance to refugees and other victims of conflicts; he reiterated his Government's strong commitment to the collective effort to protect United Nations and associated personnel and other humanitarian personnel.

24. **Mr. Ascencio** (Mexico) said that the adoption in 1994 of the Convention on the Safety of United Nations and Associated Personnel had signified a recognition by the international community of the need to strengthen the framework of protection for persons taking part in United Nations peacekeeping operations; seven years later, regrettably, that framework appeared to be inadequate. The fact that only 54 States were parties to the Convention was a clear indication that any effort to amend the Convention should be focused not only on the possibility of extending its scope of application, but also on how to achieve its universality. With regard to the Secretary-General's proposal for the development of a protocol extending the applicability of the Convention to all United Nations and associated personnel involved in peacekeeping operations, and to humanitarian personnel not currently covered by it, without a declaration of risk by the General Assembly or the Security Council (art. 1 (c) (ii)) or an agreement between the organization in question and the United Nations (art. 1 (b) (iii)), the Mexican delegation emphasized that such a protocol would be binding only on States that were parties to both the Convention and the protocol, and not on those that were parties only to the Convention. If what was proposed was to amend the Convention by means of a protocol eliminating the mechanisms provided for in article 1 (b) and (c), more information should be provided on why those mechanisms, which afforded sufficient flexibility to enable the scope of application of the Convention to be extended to specific situations, had not been applied in practice. Whatever option was chosen, it was necessary to consider ways of achieving the universality of the Convention by analysing the reasons that had prevented the accession of other Member States. Without prejudice to the special role of States parties to the Convention, Mexico supported the establishment of a working group to consider alternatives that could expand the protection of personnel participating tin peacekeeping missions, while at the same time promoting the universality of the Convention.

25. **Ms. Ramoutar** (Trinidad and Tobago) said that the international community was reminded on a regular basis of the risks faced by humanitarian and peacekeeping personnel involved in United Nations operations; it should therefore make every effort to strengthen the legal protection afforded to such personnel so that they might carry out their important tasks. Her delegation supported the Secretary-General's recommendation that key provisions of the Convention on the Safety of United Nations and Associated Personnel should be incorporated in status-of-forces and status-of-mission agreements, as that was the most tangible way of operationalizing the Convention. Host Governments had an obligation to prevent attacks against the members of missions carried out in their

territory and to bring the perpetrators to justice. The limited number of States that were parties to the Convention rendered such incorporation necessary and the proposed drafting could be a useful basis for future deliberations.

26. With regard to declarations by the Security Council or the General Assembly that there existed an exceptional risk to the safety of peacekeeping personnel (art. 1 (c) (ii)), her delegation was concerned at the possible consequences of the lack of an adequate trigger mechanism, and would support any measures aimed at ensuring that such declarations were made in the appropriate situations and in a timely manner. Her delegation was also willing to consider the proposal to designate the Secretary-General as the "certifying authority" in respect of such a declaration, with responsibility for determining whether a victim belonged to United Nations or to associated personnel, as such certification would bring authenticity and certainty to legal proceedings undertaken by a State in accordance with the provisions of the Convention. Trinidad and Tobago also shared the view of the Secretary-General that locally recruited personnel should be included within the scope of the Convention, as intergovernmental and non-governmental humanitarian organizations performed invaluable work in extremely difficult situations and undoubtedly helped to ameliorate the lives of affected persons. Nevertheless, her Government did not consider it appropriate to extend legal protection to intergovernmental and non-governmental organizations present in the United Nations area of operation but not necessarily linked to it, or to humanitarian agencies operating in an area where no United Nations presence was simultaneously deployed. In such cases it would appear that coverage would be automatically extended to such organizations because of the nature of their work. The Convention was applicable only to humanitarian personnel deployed under an agreement with the Secretary-General (art. 1 (b) (iii)), and dispensing with the link between the United Nations and such organizations could lead to great uncertainty and confusion as to who was or was not covered by the Convention. For that reason, her Government was in favour of such personnel being protected, but by a different means.

Agenda item 165: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/56/33, A/56/303 and A/56/330)

27. **Ms. Gnecco** (Colombia), speaking as Chairman of the Special Committee, introduced the report on its 2001 session (A/56/33) and noted that, pursuant to General Assembly resolution 55/156, paragraph 3, the Special Committee was to continue to consider on a priority basis the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, as well as ways and means of improving its working methods and enhancing its efficiency, and to continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects, the peaceful settlement of disputes between States, and the Trusteeship Council. The Special Committee had held substantive debates on a number of matters, listed in paragraphs 10 to 12 of the report, and had made various recommendations in paragraph 15 thereof. On the issue of the maintenance of international peace and security, it had considered seven topics, which were described in Chapter III. Paragraphs 16 to 58 reflected the Special Committee's discussion of the implementation of Charter provisions related to assistance to third States affected by sanctions; specifically paragraphs 57 and 58 contained the Special Committee's recommendations to the General Assembly on future approaches to the issue of the implementation of Article 50 of the Charter and the Special Committee's appeal to the Secretary-General regarding the report requested by the General Assembly regarding the findings and recommendations of the ad hoc expert group convened in 1998 to develop a possible methodology for assessing the consequences of sanctions for third States and to explore practical measures of international assistance to such States. The Special Committee had also considered the revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation" (A/AC.182/L.100 and Rev.1); the results of that consideration were described in paragraphs 59 to 113 of the report. On another matter, also relating to sanctions imposed by the Security Council in accordance with Chapter VII of the Charter, the Special Committee had considered for the first time the working paper submitted by the Libyan

Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions (A/AC.182/L.110 and Corr.1); the details of that discussion were contained in paragraphs 114 to 138 of the report. The Special Committee had also continued its consideration of the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/AC.182/L.89/Add.2 and Corr.1), as described in paragraphs 139 to 155. Paragraphs 156 to 167 described the Special Committee's consideration of the working papers submitted by Cuba in 1997 and 1998 entitled "Strengthening of the role of the Organization and enhancing its effectiveness" (A/AC.182/L.93/Add.1). Paragraphs 166 and 167 of the report contained, respectively, recommendations and an expression of appreciation in that respect. The consideration of the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (A/AC.182/L.99) was reflected in paragraphs 168 to 174, while paragraphs 175 to 187 described the consideration of the revised working paper submitted by Belarus and the Russian Federation regarding a request for an advisory opinion by the International Court of Justice (A/AC.182/L.104/Rev.2).

28. The question of the maintenance of international peace and security remained of the utmost importance to the work of the United Nations and was the principle on which the system of collective security envisaged in the Charter was based. The number of proposals on the topic which had been submitted to the Special Committee reflected both that situation and the interest of delegations in issues that were a source of great concern to the international community. The Charter system also accorded great importance to the principle of the peaceful settlement of disputes between States, which was the subject of chapter IV of the report. In that regard, the Special Committee had continued its consideration of the revised proposal submitted by Sierra Leone and the United Kingdom of Great Britain and Northern Ireland on dispute prevention and settlement (A/AC.182/L.111 and Rev.1); paragraphs 188 to 251 described the discussion of that topic. The consideration of proposals concerning the Trusteeship Council and the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council* was covered in chapters V and VI of the report respectively. The report of the Secretary-General (A/56/330) included updated information on efforts to reduce the backlog in their preparation and publication. Lastly, the Special Committee was continuing to give priority to consideration of its working methods, in accordance with the decision taken by the General Assembly in that regard. Paragraphs 263 to 307 addressed various aspects of the debate on that topic; of special interest was the recommendation contained in paragraph 307.

29. She recalled that in 1969, Colombia had been the first to stress the need to consider proposals for review of the Charter of the United Nations. Since 1975, the Special Committee had played a key role in the maintenance and consolidation of international peace and security, the development of friendly relations among States and the promotion of international law and the rule of law in international relations by formulating major declarations and contributing to the development of international law. However, changes in the world situation had created new challenges and dangerous threats which the Organization must face, confirming the urgent need to strengthen it. The Special Committee should play a key role in that work as a forum for discussion of legal matters that was open to participation by all States. She hoped that delegations' willingness and spirit of cooperation would allow the Special Committee to remain equal to its historical responsibility. Lastly, she thanked the other members of the Bureau, the Secretariat, the Codification Division and the delegations of the Group of Latin American and Caribbean States.

30. **Mr. Valdés** (Chile), speaking on behalf of the Rio Group, said that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should submit specific proposals, based on respect for and defence of the principles of the Charter, for meeting the new challenges facing the Organization. The Rio Group believed that the Special Committee was in a position to make a valuable contribution, particularly on the priority topic the General Assembly had entrusted it with examining, namely, the implementation of Charter provisions related to assistance to third States affected by sanctions. Given that more than three years had passed since the findings and recommendations submitted by the ad hoc expert group convened by the Secretary-General in 1998 concerning practical

measures of international assistance that could be provided to third States affected by sanctions had been published, the Rio Group believed that the Special Committee should undertake an in-depth discussion of them, and once again urged the Secretary-General to submit the report, requested on several occasions, on the political, financial and administrative feasibility of the proposed measures.

31. Consideration of the topic was part of a wider process, undertaken relatively recently, of reviewing the sanctions regimes. In that regard, the Rio Group awaited with great interest the results of the work of the unofficial working group established by the Security Council in April 2000 (S/2000/319); it was confident that the working group's recommendations would make an effective contribution to the better design, implementation and administration of sanctions and hoped that the Council would adopt them as promptly as possible. In view of the urgency and importance of the topic, the Rio Group called upon the States members of the Security Council to overcome the differences that had prevented consensus on outstanding issues in the document, which it hoped would be published shortly. It also awaited with interest the development of the concept of "selective or smart sanctions", which the Security Council had started to apply in some cases with the intention, among other things, of minimizing the humanitarian repercussions of sanctions and their negative effects on third States. The latter effects of sanctions were the chief concern of the Rio Group, which therefore wished to thank the countries that had organized seminars to consider the subject in depth and was grateful for the positive contribution they had made to the general debate on sanctions.

32. With regard to the updating of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, the Rio Group reiterated its support for the Secretariat's initiatives to speed up the preparation and reduce the backlog in the issuance of those publications and stressed the importance of timely publication in the relevant languages.

33. The Rio Group supported the initiatives to enhance the efficiency of the Special Committee's working methods. In that regard, it had suggested that it was important for proposals to be submitted in the form of an action-oriented text; for priorities to be set for the consideration of agenda items; and for sponsor delegations to follow up on their proposals on a regular basis and to have a clear idea of the aims pursued. However, it believed that an effort should be made to arrive at consensus on some of the measures proposed for improving the Special Committee's work and focusing its efforts on topics that could make a real contribution to the revitalization of the Organization. In that connection, at its past session the Special Committee had recognized the importance of considering various means of ensuring the revitalization of the General Assembly as the chief deliberative, policy-making and representative organ of the United Nations. He wished to draw attention once again to the proposals submitted to the Special Committee by Mexico and Chile, States members of the Rio Group, presenting constructive ideas that the Group hoped to see reflected in the resolution to be adopted on the report of the Special Committee and that could lead to a reformulation of the Special Committee's mandate that would permit it to accomplish its role in the Organization more effectively.

34. **Mr. Ling** (Belarus) said that in recent years the use of sanctions, especially of the economic variety, had become common at the international level as a means of resolving conflicts and restoring international peace and security. Despite their usefulness as a response to threats to peace and security, sanctions often had a negative impact on parties not responsible for the outbreak of the conflict. That situation was clearly undermining respect for sanctions as an institution in the international community, particularly since at present the United Nations had no effective mechanism for countering the adverse effects of sanctions on third parties.

35. His delegation supported the working papers submitted by the Russian Federation and the Libyan Arab Jamahiriya and believed it would be useful to combine the two proposals into a single document to serve as an instrument for setting clear criteria for the imposition of sanctions that would allow for objective and impartial evaluation of the measures adopted. Some fundamental principles must be affirmed; for example, sanctions must be imposed as a last resort when all other possibilities had been exhausted; they must be commensurate with the injury and not punitive in nature; and furthermore, States indirectly affected by sanctions should be entitled to compensation. The International Law Commission, in its consideration of

the topic of State responsibility, had dealt with the problem of coercion exercised by States in the form of sanctions or other measures, and the Committee should take into account the conclusions of the Commission in its work on the consequences of sanctions and on assistance to third States affected by economic sanctions.

36. Work had begun within the Security Council and other forums on a method of evaluating damage in order to minimize the effects of sanctions. However, to date the radical changes needed to overcome the problems inherent in assisting affected third States had not been made, not only because of the complexity of the problem but because of a lack of effort on the part of the Security Council, the Economic and Social Council and the international financial institutions, which had the resources required to help such States. Resolving the question of the adverse effects of sanctions on third States would not only relieve the situation of those States but also strengthen the efficacy of the system of sanctions.

37. Belarus set great store by the mechanisms provided in the Charter for the maintenance of peace and security. In that context, in 1990, together with the Russian Federation, it had submitted to the General Assembly a draft resolution whereby it would request the International Court of Justice to give an advisory opinion, as to the legality of the resort to the use of force by States. The Court's authority would resolve any ambiguity concerning the interpretation of certain provisions of the Charter relating to the use of armed force, bearing in mind that the Charter provided for the use of force in only two cases, namely, in self-defence or on the basis of a decision by the Security Council in response to an act of aggression or a threat to peace and security. Nothing prevented the General Assembly from requesting such an advisory opinion from the Court; the possibility was specifically provided for in Article 96, paragraph 1, of the Charter.

38. His Government was interested in the Cuban proposals entitled "Strengthening of the role of the Organization and enhancing its effectiveness", which were designed to reduce the imbalance of power between the Security Council and the General Assembly in the area of the maintenance of international peace and security. While the primary responsibility lay with the Council, the Assembly could play an extremely important role in cases where the Council was unable to take a decision owing to the use of the veto by one of its permanent members.

39. With regard to the issue of the peaceful settlement of disputes, his delegation supported the proposal submitted by Sierra Leone and the United Kingdom on dispute prevention and settlement, particularly the paragraph on the role of the International Court of Justice and other dispute settlement bodies and the call for all States to recognize the compulsory jurisdiction of the Court. Overall, the draft was based on the principle of free choice of means of dispute settlement, despite the growing trend towards the use of legal mechanisms, and it was unfortunate that it did not include the issue of conflict prevention.

40. With respect to the continued existence of the Trusteeship Council and its possible role as guardian and trustee of the common heritage of mankind, his delegation believed that that role might duplicate the activities of other bodies working in various areas of the global commons. The Trusteeship Council did not have financial implications for the Organization; thus, for the time being there was no need to abolish it or to assign other functions to it. However, the Special Committee could focus on other current issues such as the basic conditions for the Security Council's application of provisional measures on the basis of Article 40 of the Charter, clarification of the meaning of the expression "threat to international peace and security" or the applicability of Charter provisions to the concept of humanitarian intervention.

41. **Mr. Maréchal** (Belgium), speaking on behalf of the European Union, said that the associated countries of Central and Eastern Europe (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia), the associated countries Cyprus, Malta and Turkey, and, in addition, Norway, European Free Trade Association country member of the European Economic Area, associated themselves with his statement.

42. With regard to the implementation of Charter provisions related to assistance to third States affected by sanctions, he said that every effort must be made to minimize the negative impact of sanctions without affecting the efficiency of sanctions regimes. The European Union believed that the time had come to hold an in-depth discussion of the issue in the Special Committee. In recent years, the Secretary-General had

submitted a number of valuable reports which, taken together, provided a basis for enriching such a discussion. He drew attention to the report of the ad hoc expert group (A/53/312), which included recommendations and proposals for the adoption of innovative and practical measures of international assistance to third States. In order to undertake a general debate on those issues, the Special Committee would also need the report of the Secretary-General on the political, financial and administrative feasibility of the ad hoc expert group's recommendations, which had been requested in General Assembly resolutions 54/107 and 55/157. The European Union also looked forward to the conclusions and recommendations of the working group on sanctions established by the Security Council. With respect to the question of "smart" or selective sanctions, the Special Committee might make use of the important work already carried out in that area through initiatives such as the Interlaken and Bonn-Berlin processes. Turning to the issue of the humanitarian aspects of sanctions, addressed in the second part of the revised working paper submitted by the Russian Federation, he recalled that it was the European Union's position that the Special Committee's work should not overlap with that of other, more appropriate, bodies. While that concern remained, the Special Committee had succeeded in making substantial progress and minimizing differences of opinion at its most recent session.

43. The European Union appreciated the Secretary-General's efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council* since both publications were highly useful to Member States. Little progress had been made in updating the *Repertoire*, owing primarily to a lack of resources and to the low priority assigned to the task. He reminded delegations that a Trust Fund had been established in May 2000 and had received contributions from various States members of the European Union. The additional resources provided by that Fund would help the Secretariat to speed up the process of updating the *Repertoire*. The European Union regretted that, owing to a lack of consensus, it had been impossible to adopt the proposal submitted by Sierra Leone and the United Kingdom on the peaceful settlement of disputes; he hoped that it would be approved by the Special Committee at its next session.

44. The Special Committee had been unable to make any real progress in rationalizing its working methods, which was a priority for the European Union. That lack of success had been a factor in reducing delegations' interest in the Special Committee's work, a situation which had been reflected in extremely limited participation in its meetings and in a 38 per cent rate of non-use of conference services in 1999. The Special Committee had to deal with a great variety of agenda items and all those items, including those on which no consensus would be reached in the foreseeable future or which were also dealt with by other bodies, were included in each year's agenda. The items should therefore be rescheduled and considered every two or three years to determine whether positions had changed. A mechanism for suspending debate after a given time limit should also be established in order to avoid interminable discussions which did not lead to concrete results, and new proposals should be subjected to preliminary consideration before including them in the agenda. The European Union believed that the General Assembly should consider that proposal. At the 2000 session of the Special Committee, the delegation of Japan had submitted a proposal for strengthening the Special Committee, on which no consensus had been reached. The European Union was concerned that the Special Committee had not undertaken reform in order to achieve an acceptable level of efficiency and reliability and hoped that it would conclude its work by adopting a final document containing concrete measures.

The meeting rose at 1 p.m.